



24 CFR parts 5, 92, 93, 200, 574, 576, 578, 880, 882, 884, 886, 888, 902, 982, 983 and 985

[Docket Nos. 6086-N-02]

**Request for Comments: National Standards for the Physical Inspection of Real Estate and  
Associated Protocols**

**RINs:** 2577–AD05 and 2577–AD06

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Office of the Assistant Secretary for Community Planning and Development, Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Request for public comment.

**SUMMARY:** This Request for public comment serves as a complementary document to the Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) proposed rule. The proposed rule provided that HUD would publish in the Federal Register a set of NSPIRE inspection standards to consolidate and align housing quality requirements and associated inspection standards across programs. After developing and testing draft standards, HUD now seeks public review and comment on the proposed NSPIRE physical inspection standards which would accompany HUD’s final rule. Additionally, HUD is proposing changes to the list of life-threatening conditions and incorporating them into the NSPIRE inspection standards in place of codifying the list which HUD proposed in the “Housing Opportunity Through Modernization Act (HOTMA) of 2016—Housing Choice Voucher (HCV) and Project Based Voucher Implementation: Additional Streamlining Changes” proposed rule. HUD will consider comments received in response to this request before publishing a final notice of standards in the Federal Register.

**DATES:** Comment Due Date: **[Insert date 45 days from date of publication in the Federal Register]**

**ADDRESSES:** HUD invites interested persons to submit comments to the Office of the General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street S.W., Room 10276, Washington, DC 20410-0500. Communications should refer to the above docket number and title. There are two methods for submitting public comments.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at <https://www.regulations.gov/>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may also be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street S.W., Room 10276, Washington, DC 20410-0500. Due to security measures at all Federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt, HUD recommends that comments be mailed at least 2 weeks in advance of the public comment deadline.

**Note:** To receive consideration as public comments, comments must be submitted using one of the two methods specified above.

*No Facsimile Comments.* Facsimile (fax) comments are not acceptable.

*Public Inspection of Comments.* All comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at HUD Headquarters, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-

3055. This is not a toll-free number. Copies of all comments submitted are available for inspection and downloading at <https://www.regulations.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Marcel M. Jemio, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street S.W., Suite 100, Washington, DC 20410-4000, telephone number 202-708-1112 (this is not a toll-free number). Persons with hearing or speech impairments may contact the numbers above via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

## **SUPPLEMENTARY INFORMATION:**

### **I. Current Standards and Programs**

There are currently two inspection models used across the majority of HUD housing programs: Housing Quality Standards (HQS), developed in the 1970s and applicable to housing assisted under the Housing Choice Voucher and Project Based Voucher program, which are currently found at 24 CFR 982.401, and the Uniform Physical Condition Standards (UPCS) developed in the 1990s and applicable to the programs listed at 24 CFR 5.701, which are currently found at 24 CFR 5.703 with the dictionary of individual UPCS deficiencies contained in a Federal Register notice.<sup>1</sup> The unified NSPIRE standards would be used to evaluate compliance with HUD’s expectations of housing quality across the distinct programs governed by the regulatory alignment offered in the proposed rule.

### **II. NSPIRE Proposed Rule**

On January 13, 2021, HUD published a proposed rule “Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate” (86 FR 2582) to implement one of NSPIRE’s core objectives—the

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<sup>1</sup> Available at: <https://www.federalregister.gov/documents/2012/08/09/2012-19335/public-housing-assessment-system-phas-physical-condition-scoring-notice-and-revised-dictionary-of>

formal alignment of expectations of housing quality and consolidation of inspection standards across HUD programs.

As outlined within the proposed rule, HUD intends to publish updates to these standards through future Federal Register notices at least once every three years with an opportunity for public comment. This would provide further opportunity for the public to examine proposed changes, provide pertinent comments, and suggest the inclusion of industry best practices. The three-year standards development cycle aligns with the cycle used by standards development organizations in the model building codes and life safety industries. A three-year review cycle would also allow HUD to be more responsive to the ever-changing public and assisted housing portfolio and evolving needs in the field.

### **III. NSPIRE Standard Development and Background**

Throughout the development of NSPIRE, HUD has provided multiple avenues for industry and public input on the standards. In September 2019, HUD began publishing draft NSPIRE standards on HUD's website. The original and subsequent versions of the standards represent input from industry stakeholders and the public via workshops, webinars, and feedback received through HUD's NSPIRE website.

HUD's approach to standards development follows a defined set of core principles: people-centered design, a focus on efficiency, science-based rationales, continuous collaborative improvement, and streamlined operations. HUD's principles of standards development are designed to ensure that standards:

- Are developed according to an evidence-based methodology that ensures reliability and defensibility;
- Prioritize resident health, safety, and functionality of property features, ensuring that residents are living in habitable homes;
- Promote iterative collaboration and feedback; and
- Focus on streamlining inspections processes, ensuring that standards can be executed

consistently across programs.

For each inspection standard, the definition, location, deficiency, deficiency criteria, health and safety determination, and correction timeframe have been listed. Further, HUD believes that housing standards must focus on habitability and the health and safety of residents. Each proposed standard contains “rationales,” or the reason the requirement is necessary. Rationales describe the potential harm that may result from a given deficiency if left uncorrected. Generally, rationales include the health, safety, and/or major functional or habitability issue, and illustrate why detection and remediation of the deficiency is critical to housing quality.

HUD will review the comments received on this request for comments, ongoing feedback received through the NSPIRE demonstration, and ongoing input from HUD partners, industry stakeholders, and the public for current and future development of the NSPIRE standards. HUD anticipates that future revisions to the standards may include such changes as:

- Revisions to deficiency health and safety determinations or the associated time of repair;
- Updated health and safety determinations, including pass/fail determinations for the Housing Choice and Project-based Voucher programs; or
- Removal or addition of deficiencies based on public input.

#### **IV. HOTMA Voucher Proposed Rule**

Under the Housing Opportunity Through Modernization Act of 2016 (HOTMA), as described in the preamble of the NSPIRE proposed rule, life-threatening deficiencies must be addressed within 24 hours and all other deficiencies within 30 days.<sup>2</sup> Under HOTMA, Public Housing Authorities (PHAs) can allow families participating in the HCV and PBV programs to move into their unit prior to the unit passing the HQS, but only if there are no life-threatening conditions identified in the initial inspection.

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<sup>2</sup> Public Law 114-201, enacted July 29, 2016.

Consistent with HOTMA, HUD published through Federal Register Notice “Housing Opportunity Through Modernization Act of 2016: Implementation of Various Section 8 Voucher Provisions” (82 FR 5458) a list of life-threatening conditions (“HOTMA LT List”).

In the proposed rule “Housing Opportunity Through Modernization Act of 2016-Housing Choice Voucher (HCV) and Project-Based Voucher Implementation; Additional Streamlining Changes” (85 FR 63664), HUD proposed to incorporate this list into 24 CFR 982.401. HUD received comments on this proposal and is reviewing and considering these comments.

#### **V. Incorporation of HOTMA Life Threatening List (“HOTMA LT List”)**

In this request for comments, HUD proposes incorporating the HOTMA LT List into the NSPIRE standards and not in regulation and provides this list as Table 63 of the standards. HUD believes that this consolidation would be consistent with HUD’s goal of consolidating standards. All other NSPIRE standards, once final, would apply for the HCV program, except where HCV and PBV Variant inspection standards apply.<sup>3</sup> All comments on this request for comments, the HOTMA proposed rule, and the NSPIRE proposed rule will be considered before the HOTMA LT List is finalized either in regulation or in the NSPIRE standards. In these proposed standards, standards which are considered life-threatening for purposes of the HCV and PBV programs are noted with a 24-hour HCV Correction Timeframe. The HOTMA LT list will apply for all PHAs, and not just those choosing to implement the Non-Life-Threatening provision offered under HOTMA and PIH Notice 2017-20.

#### **VI. Major Changes from UPCS and HQS**

HUD welcomes and appreciates all comments on the standards detailed in this request for comments. HUD also seeks specific input on the following items that HUD considers to be material enhancements related to health and safety from UPCS and HQS to the NSPIRE standards.

*Smoke Alarms.*

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<sup>3</sup> See the exceptions which HUD proposed at § 5.705(a)(3)(ii) of the NSPIRE proposed rule.

Consistent with HUD's proposed rule, this proposed standard would incorporate prescriptive locations for the installation of smoke alarms to conform with National Fire Protection Association (NFPA) Standard 72 - National Fire Alarm and Signaling Code. Adoption of NFPA 72 would introduce new requirements for smoke alarms by requiring installation on each level and inside each sleeping area.

#### *Carbon Monoxide Alarms.*

This draft standard would incorporate statutory requirements enacted by Congress<sup>4</sup> to conform with the 2018 International Fire Code (IFC) published by the International Code Council. The draft standard would establish deficiency criteria for installation of carbon monoxide alarms.

#### *Fire Labeled Doors.*

This proposed standard would include deficiency criteria specific to these types of doors where present. The deficiencies would include function and operability criteria critical to these fire safety components where present in buildings.

#### *Guardrails.*

This proposed standard would include prescriptive deficiency criteria for guardrails where missing above elevated surfaces to protect from fall hazards along balconies, stairs, ramps, decks, rooftops, hallways, retaining walls, and other walking surfaces.

#### *Handrails.*

This proposed standard would include a deficiency with prescriptive dimensional criteria for handrails that are not functionally adequate and cannot reasonably be grasped by hand to provide stability or support when ascending or descending stairways.

#### *Mold-Like Substance.*

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<sup>4</sup> See Section 101, "Carbon Monoxide Alarms or Detectors in Federally Insured Housing" of Title I of Division Q, Financial Services Provisions and Intellectual Property, of the Consolidated Appropriations Act, 2021, Public Law 116-260, 134 Stat. 2162 (2020).

This proposed standard would include deficiencies based on discrete levels of observed conditions and a ventilation or dehumidification requirement for bathrooms to reduce conditions conducive to mold growth.

*Potential Lead-based Paint Hazards.*

This proposed standard would include a deficiency that incorporates the HQS requirements for an enhanced visual assessment for deteriorated paint where there is a child under 6 years of age residing in the unit.

*Structural System.*

This proposed standard would include a deficiency that captures signs of serious structural collapse and may threaten the resident's safety.

*HOTMA LT List.*

As discussed above, these proposed standards would replace the HOTMA LT List and make changes to the List to align with NSPIRE. One condition in the HOTMA LT List not included in NSPIRE is “any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition.” Under NSPIRE, HUD has multiple electrical standards with deficiencies that comprehensively address fire and shock risks. Therefore, HUD believes that this general deficiency is not necessary where HUD provides more specific deficiencies which would encompass it.

HUD is requesting comments on several proposed deficiencies not currently in the NSPIRE Standards that are currently included in the HOTMA LT List including space heaters and water leaking onto electrical devices.

## **VII. REQUEST FOR COMMENT ON QUESTIONS RELATED TO SPECIFIC DEFICIENCIES**

HUD seeks comment on all standards proposed in this document. Additionally, HUD seeks responses to the specific questions below regarding additional changes which HUD is



considering but has not proposed in draft form in the standards associated with this request for comments.

*Question for Comment #1:* HUD is considering amending the proposed “Mold-Like Substance Standard” to include a Deficiency or Deficiency Criteria related to mold risk. This amended Deficiency would help identify sources of moisture conducive to potential mold or mold-like substances. The amended Deficiency would outline the required use of moisture meters and moisture levels and establish the threshold for such a Deficiency. The amended Deficiency would also recommend, but not require, the use of infrared cameras to detect moisture intrusion. HUD seeks input on this proposed requirement, the use of appropriate equipment, and what would be an appropriate correction timeframe.

*Question for Comment #2:* As discussed in the NSPIRE proposed rule, HUD is considering adding the term “safe” to the regulations at 24 CFR 5.703(d) addressing drinking water. This addition would cover situations where the public water supply system has identified drinking water contamination and notified customers of the hazard. This change would not require a new standard. The NSPIRE inspector would collect information from the property manager or owner on the following: 1) any current local water alerts for the jurisdiction where the housing is located; and 2) the name of the public water supply system that serves the property. For the building information collection, the property manager or owner would advise if the property is known to be serviced by a lead service line. If this information is not known for the portion of the pipe on the property, the owner or manager would be asked to identify the water service point of entry into the building and the inspector would conduct a visual evaluation. Details on the process would be published in a subsequent notice. HUD seeks comment on the advisability of adding new requirements for the PHA submission of information performed in advance or as part of the physical inspection.

*Question for Comment #3:* HUD previously requested public comment in the NSPIRE proposed rule regarding a new deficiency under the heating ventilation and air conditioning

(HVAC) standard for the requirement of permanently installed heating sources. HUD recognizes there may be properties across HUD assisted housing located in perennially warm climates where a permanent heating source may not be necessary or required by local codes. HUD seeks input on these unique climates to better understand where these conditions may exist in HUD assisted properties.

*Question for Comment #4:* HUD is considering amending the deficiency titled “A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit” to have two distinct severity levels. The proposed deficiency would be amended to require properties to be maintained at a minimum unit temperature of 64 degrees Fahrenheit. A new severe non-life-threatening deficiency would be added for properties with observed unit temperatures between 64- and 67.9-degrees Fahrenheit. HUD seeks input on the advisability of creating two levels of severity for the minimum temperature deficiency.

*Question for Comment #5:* HUD is considering amending the deficiency titled “A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit” in the HVAC standard to limit the application of this standard and deficiency to specific months of the year and specific climate zones. HUD recognizes the current deficiency may not capture unique climate differences across HUD assisted properties. HUD seeks input on the use of specific months or climate zones for the application of the minimum temperature deficiency.

*Question for Comment #6:* HUD is considering amending the deficiency “A permanently installed heating source is damaged, inoperable, missing, or not installed and the outside temperature is below 68 degrees Fahrenheit” in the HVAC standard to include measurement by an ambient temperature thermometer provided by the inspector to determine whether the heating source is properly functioning. The amended deficiency would also outline inspection protocols

required for using the thermometer. HUD seeks input on this proposed equipment requirement for the minimum temperature deficiency in the HVAC standard.

*Question for Comment #7:* HUD previously requested public comments in the NSPIRE proposed rule regarding a new deficiency under the HVAC standard for the requirement of permanently installed heating sources. After reviewing public comments, HUD recognizes the need to define “permanently installed heating sources.” HUD seeks specific input on defining this term.

*Question for Comment #8:* HUD previously requested public comments in the NSPIRE proposed rule regarding a new deficiency under the HVAC standard for the requirement of permanently installed heating sources. HUD recognizes there may be extreme cold weather conditions when supplemental heating units may be needed to maintain a safe level of heat. HUD is considering amending the HVAC standard to create a new deficiency for the presence of unvented, fuel-burning space heaters due to the associated fire and carbon monoxide risk. HUD seeks input on this proposed deficiency for unvented, fuel-burning space heaters.

*Question for Comment #9:* HUD is considering amending the “unprotected outlet is present within six feet of a water source” proposed deficiency within the Electrical – Outlet and Switch Standard to explicitly allow using a receptacle tester with a ground fault circuit interrupter (GFCI) test button or using the integral device tester during the inspection process. This amended Deficiency would specify the acceptable types of receptacle testers and could include acceptable industry standards for a receptacle tester with a GFCI test button. An example of an acceptable industry tool standard would be Underwriters Lab Standard 1436-for Outlet Circuit Testers and Similar Indicating Devices. The amended deficiency would also add protocol details to the inspection process for the deficiency. HUD seeks input on this proposed tool specification requirement.

*Question for Comment #10:* HUD is considering amending the Electrical – Conductor standard to include a new deficiency to address leaks onto or near electrical components in the built environment. HUD seeks input on deficiency criteria for this proposed deficiency.

*Question for Comment #11:* HUD is considering amending the correction timeframes for standards and deficiencies categorized as “Severe Non-Life Threatening” where a corrective action may not be technically feasible within 24 hours. The statutory repair timeframes required under HOTMA prevent changes to correction timeframes to properties in the HCV or PBV programs. The amendment HUD is considering would continue to require that the Health or Safety risk to the resident be removed within 24 hours, but the correction timeframe would be extended. HUD recognizes that not all severe conditions can be repaired within 24 hours as they may require building permits or engaging the services of an appropriate contractor. HUD seeks specific input on whether this proposed change in correction timeframes should be addressed within the standards or through an administrative process where HUD makes an adjustment within its database to reflect an extended timeframe of repair. HUD also seeks specific input on which standards and deficiencies would benefit from this proposed approach to corrections.

*Question for Comment #12:* HUD is considering amending the Infestation Standard to create new deficiencies for extensive infestations for the pest deficiencies, which currently lack an extensive deficiency. The current deficiency criteria for extensive cockroach infestation have a specific threshold for the visual observation. The amended standard would include specific criteria with thresholds comparable to the existing extensive cockroach infestation deficiency. HUD seeks input on this proposed deficiency, appropriate deficiency criteria and which pests, if others, should also be covered under the Infestation Standard and elevated to “extensive.”

*Question for Comment #13:* HUD is considering amending the Infestation Standard to create a longer timeframe of repair for severe infestation deficiencies. The amended deficiency would allow longer correction timeframes when properties utilize industry best practices for mitigating infestations and assessing infestation risks. The amended correction timeframes that

HUD is considering would apply only to Public Housing and Multifamily properties due to the statutory constraints on the HCV and PBV programs. An example of industry best practices would be utilizing integrated pest management as a form of proactive pest control. HUD seeks input on an appropriate correction timeframe and use of industry best practices to address infestations in HUD-assisted properties.

For all the above changes, HUD also seeks comments on whether these proposed requirements, as applied to all covered housing, would substantially narrow the pool of available rental housing for families participating in HUD's programs. HUD also notes that HUD is continuing to review the comments received through the Federal Register on the NSPIRE proposed rule in the development of the attached standards. All standards-related comments from the NSPIRE proposed rule and comments received in response to this request for comments will be considered prior to the final standards notice.

## **VIII. THE NSPIRE STANDARDS**

As explained in the background section, previous versions of the NSPIRE standards have been published to the HUD website. Previous versions have been archived. HUD seeks comment on the current version, 2.2, which is available for review at [https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-02nspire\\_propose\\_standards.pdf](https://www.hud.gov/sites/dfiles/PIH/documents/6092-N-02nspire_propose_standards.pdf). HUD asks that all comments to version 2.2 be made through the *Federal Register*.

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Adrianne Todman,  
Deputy Secretary.

**[Billing Code: 4210-67]**